

I. Welcome and Call to Order-Senator John Watkins, Chair -10:05 a.m.

II. Storm Water Run off – Legal Issues- Timothy Hayes, Hunton & Williams

- What are the laws in Virginia regarding reuse and ownership of storm water?
- Virginia is a riparian state – under the riparian system, any landowner may use a stream as long as the landowner does not diminish the water quality
 - Capture rule-property owner has a right to use runoff without any exclusion
 - Drainage easement typically only allowed
 - Runoff is not like a naturally flowing stream- no one has a right to it
- *Gary Garczynski* – What if the developer granted an easement but deeded it to the county?
 - *Timothy Hayes* – clarify the default position when water rights are not addressed in the easement.
 - An easement is dedicated to the homeowner's association but the original developer still owns the fee.
- *Delegate Hull* – If an easement is agreed to, can the parties legally stipulate who has ownership in the water when it is in a retention pond?
- *Gary Garczynski* – Two developments in Fairfax and Loudoun counties, the counties want to control the stormwater retention ponds after the developers have created them. More developed counties want to control all of the storm water in the retention ponds; developers have to have different systems for irrigation of the lawns and entryways.
- *Senator Watkins* – How much control will the government have over the water?
- *Delegate Marshall* – Pervious pavement acts like a sponge so that rain water stays on the property, is this being used more often now with developers, to replace retention ponds?
 - *Tim Hayes* – Water goes into a cistern to water the grass, it is self-contained.
- *Delegate Marshall* – Does Virginia have to look at what other states are doing – Is Virginia behind in this regard?
- *Tim Hayes* – Water is just recently a concern. May just roll into the new development, there may be incentives from the local government.
- *Senator Watkins* – It would be mutually beneficial to set up a system; an environmental side to benefit Virginia development communities with stream restoration credits.
- *Delegate Hull* – Chesapeake Development – pervious pavement
- *Mike Toalson* –Chesterfield County has maintenance requirement of the stormwater as part of a proffer, but how do you enforce it?
- *Emory Rodgers* – Balancing the 2009 Building Code requirements rain water harvesting tipping scale how does that affect the public infrastructure for potable water, and gray water, and reclaimed water and irrigation?
- *Delegate Marshall* – What happens if my neighbor does not maintain his system?
 - *Tim Hayes* – There is an obligation to maintain the system after installation.
- *Senator Watkins* – Does the code address individual property owners?
 - *Emory Rodgers* – Yes.
- *Delegate Marshall* – Once developed, how does a citizen know if the tank is in the yard has been maintained?

- *Senator Watkins* – The Commission Work Group will wait for the building code will take of concerns for individual basis, but dedication or requirement of an easement surrounding a retention pond who has the right for the water?
 - *Tim Hayes* – This is easily resolved by tweaking the language in the building code.
- *Mark Flynn* – There water issues are massive long term issues for the future of the Commonwealth, there is a host issues of long term significance. We have to do it in a careful way.

III. SB 363, HB 333 -Automatic Sprinkler Systems- Ed Altizer, Virginia State Fire Marshal, and Mike Toalson, Home Builders Association of Virginia

- The legislation mirrors what has been done with motels, hotels, and dormitories.
- Would be corrected for assisted living facilities that do not have the systems.
- No date for regulations to be promulgated.
- During the latest round of hearings, the ICC did not do anything with sprinkler systems.
- *Delegate McClellan* – The fire in the Imperial Plaza, a senior assisted living building, is what brought interest into this issue; difference of life or death; the bill put in last year was a limited bill for assisted living for our most vulnerable citizens.
- *Ed Rhodes* – Cost the Imperial Plaza \$6 to \$7 a square foot to put in a sprinkler system that will hold the building in check until fire personnel can arrive
- *Delegate Hull* – We heard a presentation before on the Imperial Plaza, weren't there more problems than just the lack of sprinklers?
- *Senator Watkins* – New buildings all have to have sprinkler systems, and when the old buildings are renovated, the systems must be put in.
 - Maybe the effective date on the proposed bill needs to be 2020, to do nothing will create a dichotomy between the safe people and the unsafe people.
- *Emory Rodgers* – In 1985, the law changed; every new building needed a sprinkler system; there are 115 buildings statewide that are currently at issue.
- *Senator Watkins* – Many of these are 30 year old buildings right now that will eventually need to be renovated and brought up to code.
- *Emory* – 75 percent of these buildings are in three jurisdictions, including Alexandria and Arlington.
- *Representative of Hathaway Towers in Richmond, VA* – This will cost 15 to 20 dollars per square foot per unit owner, overlooking doing an intermediate steps.
- *Senator Watkins* – Not ignoring the intermediate steps, but ten years from now there may be a very different effect on the buildings that haven't been renovated.
- *Mark Flynn* – Fire folks have testified that the one thing that is shown to save lives is having sprinklers.
- *Ed Rhodes* – (Gave a history of a life of a fire and how the sprinkler system restricts the fire growth.)
- *Hatcher Crenshaw* – Building is the highest in Henrico County; it would cost two to three million dollars to sprinkle the building.

- *Senator Watkins* –The economic environment is not currently conducive to tax credits. The market place will demand that buildings be sprinkled eventually; lets not all forget that human safety is an important issue.
- *Gary Garczynski* – Proffering in the sprinklers is an option in Northern Virginia.
- *Delegate McClellan* – There won't be a public outcry again until someone else dies.
- *Delegate Marshall*- Are there any statistics of how sprinklers save lives?
- *Ed Altizer*- We do not have statistics, but there are no other suppression systems other than sprinklers that really offer a good fire protection system.
- *Delegate Marshall* - If you own a condo and you can't use a tax credit, can you sell the tax credit?
- *Senator Watkins* – Yes.

IV. SB 167 – Use of Noncombustible Building Material-Jay Hall, Portland Cement Association –Former Virginia State Fire Marshal

- [See presentation statistics.](#)
- *Delegate Marshall* – Of steel studs and masonry, is one more effective than the other, is there a way of looking this up?
- *Delegate Hull* – Land records have this information.
- *Roger Clements*- Land use records are not accurate.
- *Harold Suiter*(President of his unit association) – This is government trying to legislative a regulatory matter.
- *Jim Messersmith* – (Discussion of how there should be the same construction requirements with nursing homes as for any housing that houses seniors.)
- *Senator Watkins* – The DHCD board should look at the construction materials to see whether it needs to go forward with any recommendations.

V. Adjourn